



DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

JOHN A. LASOTA, JR.
ATTORNEY GENERAL

December 22, 1978

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ARIZONA ATTORNEY GENERAL

Mr. Ronald J. Walker
Assistant Director for Finance
Department of Administration
State Capitol
Phoenix, Arizona 85007

Re: I78-287 (R78-316)

Dear Mr. Walker:

We are writing in response to your request for an opinion on the following questions:

1. Would a program under which the State makes direct deposit of its employees' wages in a financial institution as contemplated in A.R.S. § 23-351.B conflict with A.R.S. §§ 35-184.A or 41-732.B.1?
2. If the answer to Question No. 1 is "No," may the Department of Transportation agree to pay a service fee to a financial institution for processing the direct deposits?

We understand that the Department of Transportation proposes to offer to state employees within that Department the opportunity to participate in a program under which the employees may designate a financial institution doing business in this State for direct deposit of the employees' wages on each payday. The direct deposit would be accomplished under a contract between the State and a financial institution to which the State would send on or before each payday lists of participating employees, their designated financial institutions, the net wages payable to each employee, and a State warrant in an amount equal to the aggregate of the employees' net wages. The contracting financial institution

would distribute the employees' wages among the various designated financial institutions for crediting to the employees' accounts on the employees' payday. We understand that the contracting financial institution would assume full responsibility for any errors or losses that might occur after the State has delivered its payroll warrant to the contracting institution, including responsibility for overdrafts to employees' accounts resulting from errors in crediting employees' accounts. We understand also that on each payday employees who are participating in the direct deposit program will receive from the State a statement of earnings and a deposit receipt which, when presented to the employees' designated financial institutions, would allow the employees to withdraw cash on their paydays.

A.R.S. § 23-351.B provides, in pertinent part:

The state . . . shall, on each of the regular paydays, pay to its employees . . . , with the written consent of the employee, by deposit on the payday to the employee's credit at a financial institution of his choice doing business in Arizona and which is a member of the federal deposit insurance corporation or of any other comparable federal or state agency, all wages due the employee

Although A.R.S. § 23-531.C does not bear directly on your questions as framed, we think it appropriate that we emphasize its terms by quoting it:

When an employee's wages are paid by bank deposit he shall be furnished with a statement of his earning and withholdings and a deposit receipt. Any bank wage deposit plan adopted by an employer shall entitle the employee to one withdrawal for each deposit, free of any service charge to the employee. The consent of an employee for payment of wage by bank deposit shall not constitute a prior assignment of wages to the bank and is revocable at any time prior to the actual deposit. No person shall be denied employment nor discharged for refusal to consent to payment of wages by bank deposit.

A.R.S. § 35-184.A provides:

All warrants issued by the division of finance during each fiscal year shall be numbered consecutively, beginning with number one, but separate series of numbers may be employed for different kinds of warrants.

A.R.S. § 41-732.B.1 provides:

The assistant director for finance shall:

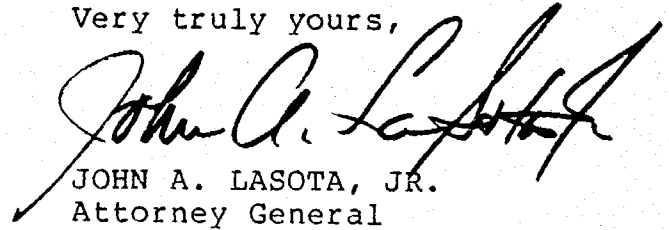
1. Draw all warrants upon the treasury for money, except in cases otherwise expressly provided by law. He shall keep in his office a warrant register in which shall be entered in regular order the number, date of issue, in whose favor, upon what fund or funds drawn and the amount.

We find nothing on the face of A.R.S. §§ 35-184.A and 41-732.B that would appear to conflict with A.R.S. § 23-351.B. Only if A.R.S. § 35-184.A or § 41-732.B were interpreted to require the Assistant Director for Finance to issue a separate warrant to each employee in payment of wages would a conflict arise. We find nothing in A.R.S. § 35-184.A or § 41-732.B, however, to suggest such an interpretation. Moreover, because such an interpretation would conflict with § 23-351.B, thereby frustrating the purpose of § 23-351.B, we reject that interpretation under the principle that statutes are to be read in harmony and so as to give all of them meaning. Lombardo v. Pollock, 21 Ariz.App. 537, 521 P.2d 636 (1974). It is our opinion, therefore, that A.R.S. §§ 35-184.A and 41-732.B.1 do not conflict with § 23-351.B.

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In response to your second question, the Department of Transportation may agree to pay a service fee if the payment has been authorized by an appropriation. If no appropriation authorizes the payment, A.R.S. § 35-154¹ prohibits a State official from agreeing to make the payment.

Very truly yours,


JOHN A. LASOTA, JR.
Attorney General

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A. No person shall incur, order or vote for the incurrence of any obligation against the State or for any expenditure not authorized by an appropriation and an allotment. Any obligation incurred in contravention of this chapter shall not be binding upon the State and shall be null and void and incapable of ratification by any executive authority to give effect thereto against the State.

B. Every person incurring, or ordering or voting for the incurrence of such obligations, and his bondsmen, shall be jointly and severely liable therefor. Every payment made in violation of the provisions of this chapter shall be deemed illegal, and every official authorizing or approving such payment, or taking part therein, and every person receiving such payment, or any part thereof, shall be jointly and severely liable to the State for the full amount so paid or received.